

REMARKS

Amendment of Claim 18

Claim 18 has been amended herein to recite "that white light is emitted by the light emitting assembly."

Such amendment places the claims 1-20 and 25-30 in form for consolidated examination and further prosecution, as discussed below.

Response to Restriction Requirement

In the December 16, 2005 Office Action, claims 1-20 and 25-30 were restricted by the identification of the following species of the claimed invention:

- Claims 1-17 and 19-20, characterized by the examiner's statement that "LED comprises short wavelength radiation and visible white light spectrum;"
- Claim 18, characterized by the examiner's statement that "LED comprises short wavelength radiation and relatively long wavelength;" and
- Claims 25-30, characterized by the examiner's statement that "LED comprises blue to ultraviolet wavelength radiation and white light wavelength."¹

In response, applicants hereby elect, with traverse, claims 1-17 and 19-20.

The traversal of the restriction requirement is based on the fact that the subject matter in the respective groups of claims is not independent and distinct, as required under the statute (35 USC 121) for a proper restriction requirement to be made.

Instead, the subject matter in each of the groups of claims is closely related to the subject matter in the other groups of claims.

¹ It is noted that the language of the characterization of claims is somewhat misdescriptive as saying that an LED "comprises" a particular wavelength radiation and second wavelength or light. An LED is a physical microelectronic device that *produces* a radiation emission when the device is appropriately energized; it does not "comprise" such radiation. The second wavelength or light recited by the claims likewise is not "comprised" in or by an LED.

Each of the claims in the three groups of claims requires shorter wavelength radiation and a luminophoric medium for down-converting shorter wavelength radiation so that the light emitting device emits white light. This is shown in Table 1 below.

Table 1. Recitations in main claim of each of the three groups of claims identified in restriction requirement in December 16, 2004 Office Action

Characteristic or Feature	Recital in Claim 1 (from which all other claims 2-17 and 19-20 of the first restriction group either directly or indirectly depend)	Recital in Claim 18 (second restriction group)	Recital in Claim 25 (from which all other claims 26-30 of the third restriction group depend)
radiation	"relatively shorter wavelength radiation"	"relatively shorter wavelength radiation"	"radiation in the blue to ultraviolet spectrum" (which in the context of the claim is relatively shorter wavelength radiation)
luminophoric medium	"down-converting luminophoric medium"	"down-converting luminophoric medium"	"luminophoric medium ..impinged by radiation in the blue to ultraviolet spectrum and ..responsively emit radiation in a range of wavelengths, so that radiation is emitted from the light emission device as a white light output" (the luminophoric medium therefore is down-converting)
output light	"white light"	"white light"	"white light"

It therefore is seen that the claims in the respective groups identified in the Office Action do not meet the criterion of claiming "distinct" and "independent" subject matter, and restriction therefore is not appropriate.

It therefore is requested that the restriction requirement be vacated, and that all claims 1-20 and 25-30 be retained in consolidated form for search and examination purposes.

Submission of Supplemental IDS Under Separate Cover

A supplemental IDS is being submitted under separate cover, for consideration by the examiner.

CONCLUSION

It is requested that the restriction requirement of the December 16, 2004 Office Action be reconsidered, and on reconsideration, withdrawn in favor of unitary search and examination of all claims 1-20 and 25-30.

If there are any issues outstanding, incident to the search and examination of the claims, the examiner is requested to contact the undersigned attorney at (919) 419-9350 to discuss their resolution.

Respectfully submitted,



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